

REVIEW, HEARING, APPEAL, AND CIVIL ACTION RIGHTS

1. **REVIEW:** The acceptance or dismissal of your complaint will be automatically reviewed by the National Guard Bureau. If the decision to accept or dismiss all or part of your complaint is reversed by the National Guard Bureau you and the State National Guard will be notified. However, if plan to appeal the dismissal of your complaint, you must do so within 30 calendar days after receipt of dismissal.

2. **HEARING:** If within 180 calendar days after the filing of a formal complaint and any extension agreed on, but not to exceed 90 days, the National Guard Bureau has not issued a notice of investigation completion, you have a right to request a hearing by an Equal Opportunity Commission Administrative Judge by writing to the EEOC District Office for your area. You may obtain that address from any EEO counselor, the State Equal Employment Manager or Appendix C of Volume II of National Guard Regulation (AR) 690-600/National Guard Regulation (AF) 40-1614.

3. **APPEAL:** If all or part of your complaint is dismissed and you are dissatisfied with the dismissal, or if you are dissatisfied with a final decision issued by the National Guard Bureau, you may file an appeal and a statement or brief in support of the appeal with:

Director, Office of Federal Operations
Equal Employment Opportunity Commission
P.O. Box 19848
Washington, DC 20036

The appeal must be in writing using EEOC Form 573, Notice of Appeal/Petition, indicating what is appealed. The appeal may be filed by mail, personal delivery, or facsimile. A copy of the appeal and a copy of any statement or brief in support of the appeal must be provided to your State Equal Employment Manager and to:

Complaints Management and Support Activity
National Guard Bureau (NGB-EO-C)
1411 Jefferson Davis Highway
Arlington, VA 22202-3231

4. **TIME LIMIT FOR AN APPEAL:** The appeal must be filed within 30 calendar days after the receipt of the dismissal notice or final decision. If the complainant is represented by an attorney of record, then the 30 day time limit will be based from the date of the receipt of the dismissal notice or final decision by the attorney. Any statement or brief in support of the appeal must be submitted within 30 calendar days of filing the appeal.

5. **CIVIL ACTION:** In accordance with 29 CFR 1614.407, a complainant is authorized to file a civil action in an appropriate U.S. District Court under Title VII of the Civil Rights Act, The Age Discrimination in Employment Act, or the Rehabilitation Act, as follows:

SUBJECT: Review, Hearing, Appeal and Civil Action Rights (Continued)

“(a) Within 90 days of receipt of the final decision on an individual or class complaint if no appeal has been filed;

(b) After 180 days from the date of filing an individual or class complaint if an appeal has not been filed and a final decision has not been issued;

(c) Within 90 days of receipt of the Commission’s final decision on appeal; or

(d) After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.”

6. REPRESENTATION IN CIVIL ACTION: If you do not have, or are unable to obtain the services of a lawyer, you may request the court to appoint a lawyer to represent you. In such circumstances as the court may deem just, the court may appoint a lawyer and may authorize the commencement of the action without the payment of fees, costs, or security. Any such request must be made within the time limits for filing the civil action and in such form and manner as the court may require.

7. PROPER DEFENDANT: If you file a civil action, you must name the Secretary of the Army or Air Force, as listed in the subject of this notice, as the defendant. Failure to name the Secretary of Army or the Air Force, as appropriate, may result in the loss of any judicial redress to which you may be entitled.

8. MIXED CASE COMPLAINTS: If your complaint includes an action that is also appealable to the Merit Systems Protection Board (MSPB), you have the following rights:

a. If your complaint is dismissed because you filed an appeal to the MSPB, you may not file an appeal with the EEOC unless you claim that the complaint or issue dismissed was not a mixed case matter. However, you will have the right to petition the EEOC to review the MSPB final decision on the discrimination issue.

b. If you are dissatisfied with a final decision issued by the National Guard Bureau, you may file an appeal with the MSPB, rather than the EEOC, and your appeal must be filed within 20 calendar days after the receipt of the final decision.

c. If you have not received a National Guard Bureau decision within 120 calendar days after filing your complaint, you may at any time thereafter file an appeal with the MSPB as specified 5 CFR 1201.154 (a) or you may file a civil action.